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Ravalli County Commissioners

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*CC this to:
Jrutan / Regina +
Karen Mahar*

September 8, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ravalli County Commissioners
215 South 4th Street, Suite A
Hamilton, Montana 59840

Re: Melba Roth: appeal of denial of request to transfer family transfer tract into living revocable trust
Our file: 111602-00001

Dear Ravalli County Commissioners:

I am writing to appeal your decision to deny the transfer of Melba Roth's Ravalli County property (Parcel No. 1103255) into her revocable living trust.

We assure you that this transfer is not an attempted end-run around the Montana Subdivision and Platting Act. Rather, it is a necessary part of Ms. Roth's estate plan, which involves a revocable living trust. The transfer should not be classified as a subsequent transfer of a gifted tract because the property is not being transferred to another person or entity. It is being transferred only to Ms. Roth's revocable living trust, which, as explained below, is disregarded as separate from Ms. Roth for almost all legal purposes other than holding legal title.

A revocable living trust is essentially a will. It is used as an estate planning tool to avoid the costs of probate, control assets bequeathed to minors and to plan for incapacity, among other things. After one sets up a revocable living trust, all assets are transferred into the trust, including bank accounts and real property, and even all personal property such as jewelry, household furniture, etc. Although the trust holds title to the assets, control is retained by the individual who created the trust, and all of the trust's assets are held for the benefit of that individual.

The fact that a revocable living trust owns the assets is a mere formality: for all intents and purposes, the revocable living trust and the person who created it are one and the same. The Internal Revenue Service recognizes this and identifies revocable living trusts with the creator's social security number. The Service also does not tax transfers to a revocable living trust because it does not consider such transfers as gifts to a third-party. Similarly, state law also

disregards a revocable trust as a separate entity for some legal purposes: for example, assets in such trusts are subject to the claims of creditors of the individual who created the trust.

Ms. Roth created a revocable living trust as part of her estate plan. Her trust's identification number is Ms. Roth's social security number. All of her assets, including her bank accounts, personal property and real property, have been transferred to her trust with the exception of her Montana property. However, as explained above, Ms. Roth retains control of all of the trust's assets. The transfer of her Ravalli County property from her individual name into the trust would not have any practical effect on the ownership of the property because it would be transferred into her revocable living trust, not a separate entity.

We hope that you will reconsider your decision to refuse to record the deed transferring Ms. Roth's property into her revocable living trust.

Please let me know if you have any questions concerning the above. I look forward to hearing from you soon.

Best regards,

HOLLAND & KNIGHT LLP



Maggie Vining

Cc: Melba Roth